Flatbush Medical Center, a division of Kingsboro Medical Group *and* Local 153 Office and Professional Employees International Union, AFL-CIO. Case 29-CA-10066

30 May 1984

DECISION AND ORDER

BY CHAIRMAN DOTSON AND MEMBERS ZIMMERMAN AND HUNTER

On 22 July 1983 Administrative Law Judge Raymond P. Green issued the attached decision. The Respondent filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings,[1] and conclusions only to the extent consistent with this Decision and Order.

The judge found that the Respondent violated Section 8(a)(1) of the Act 28 October 1982 by soliciting employee grievances, by announcing the granting of additional paid holidays and improved Keogh Plan benefits, and by threatening the loss of existing benefits such as the annual Christmas party, raises and bonuses in order to induce its employees to refrain from joining or supporting the Union. For the reasons stated below we find merit in the Respondent's exceptions to these findings. We therefore reverse the judge's conclusions and dismiss the complaint in its entirety.

The facts are set forth in full in the judge's decision. During January 1982[2] the following three medical facilities merged to form the Kingsboro Medical Group: Bay Ridge Medical Center, Kings Highway Medical Center, and Flatbush Medical Center.[3] Due to a disparity of benefits and working conditions at the three facilities, a decision was made that spring to equalize the terms and conditions of employment throughout the medical group. About the same time John Laidler, regional administrator of the Kingsboro Medical Group, became aware of concern among Flatbush employees that the merger might adversely affect their working conditions. Thereafter rumors began to circulate that several established benefits including the annual Christmas party, raises, and yearend bonuses would not be forthcoming. Laidler testified that employee anxiety intensified over the next few months.

On 18 October union agents began an organizational campaign at Flatbush by standing outside the facility's main entrance and handing out union literature. It is undisputed that the Respondent was aware of the Union's efforts to organize its employees. On 28 October the Respondent issued a letter to its Flatbush employees. The judge found the contents of the letter to be violative of Section 8(a)(1) of the Act. We reverse.

The complete text of the Respondent's 28 October letter follows:

> There has been some anxiety about possible changes in working conditions and benefits as a result of the merger. As long as the relationship between employees and administration remains unchanged, our position is as follows.
>
> As Dr. Koota told you, it has never been our intention to deprive you of any benefits you now have. We are looking forward to the Christmas party and you will receive your bonuses and raises based as before on your longevity, performance, dedication and attendance.
>
> In line with our aim to equalize the benefits of the employees of the three centers, plans are now being made to increase the Keogh Plan of non-union employees of KINGSBORO substantially.
>
> Paid holidays will be increased from 11 to 13 per year.
>
> As far as job security is concerned, can you think of a single permanent employee of Flatbush Medical Group who was terminated for unjustifiable reasons in the last 15 years? Surely you have noted that we have bent over backwards to be fair. Especially at this time of expansion no employee who does his job needs to fear.
>
> As before, we always remain ready to listen to your suggestions and grievances.
>
> We hope that we can continue to keep up our warm and friendly relations with you.[4]

The judge concluded that the statement, "As before, we always remain ready to listen to your suggestions and grievances," constituted an unlaw-

[1] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

[2] All dates are in 1982 unless otherwise indicated.

[3] The Flatbush Medical Center is the only facility involved in this proceeding.

[4] The letter was signed by Laidler and Mimi Finchley, administrator of Flatbush. Dr. Koota had recently become medical director of the Kingsboro Medical Group.

ful solicitation of employee complaints. The Respondent asserts that this statement is merely a reaffirmation of its longstanding policy of listening to its employees' grievances. It is well established that an employer who has had a past policy and practice of soliciting employee grievances may continue such a policy and practice during a union's organizational campaign. *Mt. Ida Footwear Co.*, 217 NLRB 1011 (1975); *Reliance Electric Co.*, 191 NLRB 44, 46 (1971), enfd. 457 F.2d 503 (6th Cir. 1972). In light of the General Counsel's failure to submit any evidence to establish that the Respondent's letter inaccurately reflected its past practice with regard to listening to its employees' suggestions and grievances we find that no violation of the Act occurred.

The judge further found that the Respondent, through its 28 October letter, violated Section 8(a)(1) of the Act by timing the announcement of additional paid holidays and increases in the Keogh Plan benefits of nonunion employees to coincide with the Union's organizational campaign in an effort calculated to influence its employees regarding their membership in and support for the Union. Although the judge found a violation in the timing of the announcement, he did not find the actual granting of the benefit increases to be unlawful.[5] We find merit in the Respondent's exceptions to the judge's findings. As stated above the Respondent decided in the spring of 1982 to equalize the terms and conditions of employment throughout the medical group's three recently merged facilities. In early 1982 the Respondent also decided to develop a uniform Keogh Plan to replace three separate plans in effect at these facilities at the time of the merger. Although the Respondent's employees were not notified in writing that efforts were being made to create a uniform Keogh Plan, the record discloses that the employees became aware about July that "something was in the works." During the summer of 1982, well before the commencement of the Union's organizational campaign, the vacation benefits for Flatbush employees were increased as the Respondent began to implement its benefit equalization plan. Although the letter in issue was distributed after the Union's organizational efforts began, it announced the granting of two additional predetermined holidays less than 1 month before the first such additional holiday, i.e., the day after Thanksgiving, occurred. In finding a violation the judge based his conclusion on purely circumstantial evidence—the announcement of the increased benefits shortly after the start of the union campaign. In so doing the judge ignored the direct, undisputed evidence that the Respondent merely was announcing additional aspects of the equalization plan which it had already begun to implement. Given the lawful nature of the predetermined benefit increases and the General Counsel's failure to submit any affirmative evidence that the announcement was calculated to induce employees to refrain from supporting or joining the Union, as alleged in the complaint, we conclude that no violation of the Act occurred.[6]

Finally, the judge concluded that the Respondent's statement in the 28 October letter of its position, "[a]s long as the relationship between employees and administration remains unchanged," when read together with its first two paragraphs constituted a threat of reprisal by conditioning the continued existence of present benefits on the continued nonunion relationship between the Respondent and its employees. We disagree. The letter makes no mention of the Union. On the contrary, the letter refers to anxiety among the Flatbush employees and confirms the Respondent's assertion that the letter was issued to allay the employees' distress over a circulated rumor that they were going to suffer a loss of benefits due to the recent merger and a new administration under Dr. Koota. The letter simply reconfirms that benefits of longstanding duration, i.e., Christmas party, raises and bonuses, would continue as before.

In addition to the lack of any evidence of union animus, we note that the Respondent voluntarily offered to recognize the Union, readily entered into a consent election agreement, and engaged in no campaigning in opposition to the Union. In light of the absence of evidence of antiunion motivation and because the above language at most was ambiguous,[7] we find that the letter does not contain a threat of reprisal in violation of Section 8(a)(1) of the Act.

ORDER

The complaint is dismissed.

[5] The complaint in the instant case alleges that the granting of the benefit increases was unlawful. However, no exceptions were filed to the judge's failure to make a finding in that regard.

[6] Even were he to accept Member Zimmerman's conclusion that the Respondent timed its announcement of benefit increases to influence its employees regarding their membership in and support for the Union, Chairman Dotson would not find the Respondent's action violative of the Act. The Chairman agrees with the holding of the Ninth Circuit in *Raley's, Inc. v. NLRB*, 703 F.2d 410 (1983), that an employer's true statement announcing lawfully granted benefits is protected under the free speech rights embodied in Sec. 8(c) of the Act.

[7] Even if viewed as ambiguous, we find the language in the letter to be innocuous. As argued by the Respondent, the alleged violative language can reasonably be interpreted as an acknowledgement that the terms of employment fixed by the Employer would be subject to change if a union was designated to represent the employees and bargain on their behalf. The General Counsel failed to show by a preponderance of the evidence that the intended purpose of the letter was to unlawfully induce employees to refrain from supporting the Union.

MEMBER ZIMMERMAN, dissenting in part.

Contrary to my colleagues I would not reverse the judge's finding that the Respondent violated Section 8(a)(1) by announcing the granting of additional paid holidays and improved Keogh Plan benefits in order to induce its employees to refrain from joining or supporting the Union.

The Respondent was formed in January 1982[1] when three medical facilities were merged. Due to a disparity in benefits and working conditions at the three facilities, a decision was made in the spring, which was not announced to employees, to equalize the terms and conditions of employment at the three facilities over a 2- to 3-year period. In October the Union commenced an organizing campaign at the Respondent's Flatbush medical facility. The Respondent was aware of the Union's organizing efforts and on 28 October the Union filed a representation petition. That same day, the Respondent issued a letter to its Flatbush employees announcing, inter alia, substantial increases in their Keogh Plan and the addition of two paid holidays.

I agree with the judge that the announcement was timed to coincide with the union campaign in an effort to influence its employees regarding their membership in and support for the Union. This is indicated by the fact that prior to 28 October the Flatbush employees had not been notified of any plans to equalize benefits among the three facilities, the details of the improvements in the Keogh Plan were not even decided upon until later, in December, and the employees at the Respondent's Bay Ridge medical facility did not receive a similar letter even though their Keogh benefits were also being raised. Accordingly, I would find that the General Counsel established a prima facie case that the Respondent had unlawfully timed the announcement of the increased benefits and holidays to influence the employees' union activities, and that the Respondent has failed to rebut it.[2]

The Respondent's 28 October letter also stated that:

> There has been some anxiety about possible changes in working conditions and benefits as a result of the merger. As long as the relationship between employees and administration remains unchanged, our position is as follows:
>
> As Dr. Koota told you, it has never been our intention to deprive you of any benefits you now have. We are looking forward to the Christmas party and you will receive your bonuses and raises based as before on longevity, performance, dedication and attendance.

The reference to employees receiving the current existing benefits, including the Christmas party, the bonuses, and the raises, has to be read in conjunction with the preceding statement, "As long as the relationship between the employees and administration remains unchanged." Therefore I agree with the judge that, given its timing, the employees could readily construe the letter as conditioning the continued existence of their present benefits on the continued nonunion relationship between the Respondent and the employees. Accordingly, I would find that the Respondent violated Section 8(a)(1) by impliedly threatening reprisals against the employees if they supported the Union.

DECISION

STATEMENT OF THE CASE

RAYMOND P. GREEN, Administrative Law Judge. This case was heard by me in Brooklyn, New York, on May 31, 1983. The charge in this proceeding was filed by Local 153 Office and Professional Employees International Union, AFL–CIO on November 17, 1982, and the complaint was issued on January 3, 1983, by the Regional Director for Region 29 of the National Labor Relations Board. In substance, the complaint alleges that, in October 1982, the Respondent: (1) threatened employees with the loss of raises, bonuses, and an annual Christmas party if they became or remained members of the Union; (2) offered, promised, and granted additional holidays, and increased Keogh Plan benefits and other benefits in order to induce its employees from supporting or joining the Union; and (3) solicited employee complaints and grievances.

Based on the record as a whole, including my observation of the demeanor of the witnesses, and after considering the arguments of counsel, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Kingsboro Medical Group is a medical corporation performing medical services in New York City. It consists of three previously separate medical groups which merged in 1982. These were the Flatbush Medical Group, the Bay Ridge Medical Group, and the Kings Highway Medical Group. The merged group is, in turn, affiliated with the Health Insurance Plan (HIP).

It is conceded that the Respondent annually derives gross revenues in excess of $250,000 and that it purchases and causes to be delivered to it supplies and other materials valued in excess of $50,000 which are delivered to it, in interstate commerce, directly from States other than the State of New York. It therefore is concluded that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of

[1] All dates hereafter refer to 1982.

[2] Thus, as found by the judge, the evidence failed to establish that the program to equalize benefits at the three centers was scheduled for implementation on 28 October. This finding is buttressed by the fact that the details of the plan were not worked out until December.

the Act, and a health-related facility within the meaning of Section 2(14) of the Act.

II. LABOR ORGANIZATION

It is agreed by all parties that the Union herein is a labor organization within the meaning of Section 2(5) of the Act.

III. THE OPERATIVE FACTS

In September 1982, the Union had successfully completed an organizational campaign at Clinton Medical Group (also affiliated with HIP), in the Bronx, New York. This thereby left two remaining HIP centers unorganized. Thereafter, commencing on October 18, 1982, the Union through its organizers Pat Hoffman and John Gillis began an organizational effort at the Flatbush Medical Group. This was done by standing on the sidewalk outside the main entrance to the Respondent and handing out union literature to employees as they came to work in the morning. There is, therefore, no question but that the Union's organizing efforts were done in an open manner. Indeed, the Respondent's witness John Laidler, the regional administrator for the Kingsboro Medical Group, conceded that he was aware of the Union's campaign from its inception.

According to the testimony of employee Theresa Abruzzo, on the day after the Union first appeared outside the Employer's premises, a notice was posted on the bulletin board announcing that the employees would receive an additional holiday, namely, the day after Thanksgiving. She further testified that the notice indicated that employees would have their Christmas party and receive their annual yearend bonuses.

With respect to the day after Thanksgiving, Abruzzo's testimony was that this was a new and additional holiday. As to the Christmas party and the bonuses, she testified that these benefits had been in effect for many years, although in the autumn of 1982, she was told by Supervisor Mary LaChance that the medical director Dr. Koota had said, at a supervisor's meeting, that there was not going to be a Christmas party and that he could not make any promises as to the yearend bonuses.

Subsequent to October 18, the Union continued its efforts and ultimately obtained authorization cards from many of the nonprofessional employees. A dinner meeting was held by the Union for employees on October 27, 1982, at which it was announced that the Union was going to file a petition for an election with the National Labor Relations Board. At this meeting, there were present several people whom the Union did not believe to be supervisors, such as Mary LaChance. After the petition was filed, it was ascertained that LaChance was in fact a supervisor and it was agreed that she was not eligible to vote. In any event, on the following day, October 28, the Union filed a petition for an election in Case 29-RC-5812. This was mailed to the Company on October 28, and therefore could not have been received before October 29, 1982.

On October 28, the same day as the petition was filed, the Respondent issued to its employees a letter reading as follows:

> There has been some anxiety about possible changes in working conditions and benefits as a result of the merger. As long as the relationship between employees and administration remains unchanged, our position is as follows.
>
> As Dr. Koota told you, it has never been our intention to deprive you of any benefits you now have. We are looking forward to the Christmas party and you will receive your bonuses and raises based as before on your longevity, performance, dedication and attendance.
>
> In line with our aim to equalize the benefits of the employees of the three centers, plans are not being made to increase the Koegh Plan of non-union employees of KINGSBORO substantially.
>
> Paid holidays will be increased from 11 to 13 per year.
>
> As far as job security is concerned, can you think of a single permanent employee of Flatsbush Medical Group who was terminated for unjustifiable reasons in the last 15 years? Surely you have noted that we have bent over backwards to be fair. Especially at this time of expansion no employee who does his job needs to fear.
>
> As before, we always remain ready to listen to your suggestions and grievances.
>
> We hope that we can continue to keep up our warm and friendly relations with you.

Following the issuance of the foregoing letter, the Company entered into a consent election agreement with the Union[1] and an election was held on December 6, 1982. The Union won the election and was certified as the exclusive collective-bargaining representative on December 15, 1982, in a unit of all office clerical employees, technical employees, and medical assistants employed at the Flatbush Medical Center. It noted that with the exception of the October 28 letter (assuming that it related to the Union's organizational campaign) the Employer did not campaign in any other manner in opposition to the Union. As of the date of this hearing, the Union and the Company were involved in contract negotiations.

With respect to the Christmas party and the annual raises and bonuses, the evidence shows that these were benefits of longstanding duration. Basically it is the Company's position that insofar as the posting on October 18 and the letter of October 28 these merely reconfirmed that these benefits (and all other working conditions and benefits) would continue as before. The Respondent maintains that the reason it made these communications at that time was that there seemed to be some concern among the employees that their benefits would not continue because of the recent merger. The Respondent further asserts that no reasonable person should construe its

[1] The Company offered to voluntarily recognize the Union. However, this offer was rejected because another labor organization was apparently interested in organizing the employees and Local 153 wanted the benefit of a Board certification.

October 28 letter as conditioning the continuation of these benefits on the Medical Center remaining nonunion.

Regarding the allegation that the Respondent by its notice of October 18 and the October 28 letter promised additional paid holidays and increased Keogh Plan benefits, the Respondent makes the following assertions. According to Laidler, when the merger of the three Medical Centers became effective in January 1982, it was apparent that there was a degree of disparity amongst the three groups of employees insofar as their working conditions and fringe benefits. He testified that amongst the disparities were holidays, in that Kingsboro had 14 paid holidays as compared to 11 paid holidays at Flatbush and Bay Ridge. He also testified that the Keogh Plan benefits at Kingsboro were higher than at the other two Medical Centers. Laidler asserts that because of these disparities, and because the three centers had been merged, it was the intention of management to begin to equalize benefits for the nonunion employees of the three centers over a 2- to 3-year period. He therefore states that the Company decided, before the appearance of the Union, to raise the number of holidays at Flatbush and Bay Ridge to 13 and to increase the Keogh Plan benefits at these two centers. With respect to the Keogh Plan, Laidler testified that this involved a substantial amount of legal and other work and that the new plan was not finally decided upon until December 1982. Regarding these changes, the record herein shows that the employees at Flatbush received no official notice of the Employer's intentions prior to the Union's appearance in October 1982. Moreover, it also appears that, whereas the employees at Flatbush received their first official notice via the October 28 letter that their holidays were being increased and that their Keogh Plan benefits were being raised, the employees at Bay Ridge received no similar notice at that time.

IV. ANALYSIS

A. *The Alleged Promise and Granting of Benefits*

It is well settled that the granting or promising of benefits during the pendency of an election petition is, prima facie, evidence of unlawful interference.[2] Thus in *NLRB v. Exchange Parts Co.*, 375 U.S. 405, 409 (1964), the Court stated:

> The danger inherent in well-timed increases in benefits is the suggestion of a fist inside the velvet glove. Employees are not likely to miss the inference that the source of benefits now conferred is also the source from which future benefits must flow and which may dry up if it is not obliged.

Further, it also has been held that the announcement of improved benefits will be presumptuously unlawful, even if the announcement occurs prior to the filing of an election petition, but after the employer becomes aware of a union's organizational efforts. Thus, in *Leisure Time Tours*, 258 NLRB 986, 994 (1981), the Board adopted the decision of an administrative law judge who stated:

> Respondent, on the other hand, contends that the General Counsel has not established a *prima facie* case of unlawful motivation, and notes that no evidence was presented that Respondent was aware of the filing of the petition when it granted the increase.
>
> I agree with Respondent that the evidence does not establish that it was aware of the filing of the petition when it announced its wage increases, and I do not infer that Respondent was so aware. However, contrary to Respondent's position, the inquiry does not end there.
>
> There is a presumption of the illegality of a wage increase granted by an employer when it occurs after the employer acquires knowledge of the union campaign, even when a petition has not yet been filed. In circumstances where, as here, the timing of the wage increase coincided with the origination of union activity, absent an affirmative showing of some legitimate business reason for the timing, it is not unreasonable to draw the inference of improper motivation.

In either case (when increased benefits are announced either after an election petition is filed or after the employer becomes aware of the organizational campaign), there is a presumption of unlawful intent which, however, may be overcome if the employer, through affirmative evidence, can establish that there was some legitimate business reason for the timing of the bestowal of the benefits. This ordinarily is shown through evidence that the benefit bestowed either conforms to a past practice (for example, wage increases given out at the same time each year), or that the benefit had been decided on prior to the employees' union activity. *Starbright Furniture Corp.*, 226 NLRB 507, 510 (1976); *Gould Inc.*, 221 NLRB 899 (1975); *Pace Oldsmobile*, 256 NLRB 1001 (1981).[3]

Nevertheless, even where a particular benefit has been planned before the union begins organizing employees, the employer may still violate the Act when it times the granting of the benefit in such a manner so as to influence the employees' union activities. In *NLRB v. Pandel-Bradford, Inc.*, 520 F.2d 275, 280–281 (1st Cir. 1975), the court stated:

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[2] In *Wintex Knitting Mills*, 216 NLRB 1058 (1975), the Board stated:

> It is well established that the announcement of a wage increase during the pendency of a representation petition for the purpose of stifling an organizational campaign constitutes unlawful interference and coercion . . . .
>
> An employer's legal duty in deciding whether to grant benefits while a representation petition is pending is to determine that question precisely as if a union were not in the picture. An employer's granting a wage increase during a union campaign "raises a strong presumption" of illegality. In the absence of evidence demonstrating that the timing of the announcement of changes in benefits was governed by factors other than the pendency of the election, the Board will regard interference with employee freedom of choice as the motivating factor. The burden of establishing a justifiable motive remains with the Employer.

[3] *Pace Oldsmobile* was affirmed in part, but remanded in other respects by the Second Circuit Court of Appeals. 681 F.2d 99 (1982).

> Justifying the timing is different from merely justifying the benefits generally. Wage increases and associated benefits may be well warranted for business reasons; still the Board is under no duty to permit them to be husbanded until right before an election and sprung on the employees in a manner calculated to influence the employees' choice.[4]

In the present case the evidence strongly suggests and I find that the announcement of the benefits herein was timed to coincide first with the initial appearance of the Union at the premises and secondly with the anticipated filing of the petition for an election. Thus, although I am inclined to believe that the Employer did undertake a program to equalize benefits at all three medical centers after the merger, it is clear to me that this program was to take 2 to 3 years and was not scheduled for implementation by October 18 or 28. In this respect, I note that prior to those dates the employees at Flatbush Medical Center had not been notified of any such plans. Moreover, when the October 28 letter was issued (announcing two additional holidays and an improved Keogh Plan), no similar letter was sent to the employees of Bay Ridge Medical Center which also was encompassed by the equalization plan. Further, although announcing via the October 28 letter an improvement in the Keogh Plan, the evidence in this case shows that the details of this improvement were not fully or finally decided on until sometime later in December 1982.

In light of the above it is my conclusion that the Respondent timed the announcement of the above-noted benefits in an effort calculated to influence its employees regarding their membership in and support for the Union. As such, it is concluded that in this respect the Respondent violated Section 8(a)(1) of the Act.

B. *The Alleged Threats of Benefit Loss*

This allegation is based solely on the contents of the October 28 letter which, on its face, does not mention the Union. Nevertheless, even though there was testimony that the letter was intended to allay employees' fears regarding the merger (in effect since January 1982), it is my opinion, based on its timing and context, that the letter was also geared toward the Union's organizational campaign.

Regarding this allegation, the General Counsel contends that the first two paragraphs when read together constitute a threat of reprisal and I am inclined to agree. In this regard, a natural interpretation of the first paragraph's second sentence is to construe it as making conditional the language that follows. That is, it is not unreasonable to read the second paragraph, with its reference to the current existing benefits, including the Christmas party, the bonuses, and the raises, as being conditioned on the language immediately preceding, which states, "As long as the relationship between the employees and administration remains unchanged,[5] our position is as follows." Therefore, as I can readily see how employees could view the language of this letter as conditioning the continued existence of their present benefits on the continued nonunion relationship between the Employer and the employees, it is my opinion that the letter contains a threat of reprisal in violation of Section 8(a)(1) of the Act.

C. *The Alleged Solicitation of Grievances*

This allegation is also based solely on the contents of the October 28 letter which states, "As before, we always remain ready to listen to your suggestions and grievances." As I have concluded above that the letter was, at least in part, a response to the Union's organizational campaign, it would be hard to imagine that this language does not, on its face, constitute a solicitation of grievances designed to influence potential voters. Further, as the Company has not shown any past practice of entertaining grievances and as this statement is coupled, in the same letter, with what I have already concluded to be unlawful promises of benefits, it is my opinion that this too constitutes a violation of Section 8(a)(1) of the Act. *City Products Corp.*, 251 NLRB 1512, 1518 (1980); *Uarco, Inc.*, 216 NLRB 1 (1974).

CONCLUSIONS OF LAW

1. Respondent Flatbush Medical Center, a division of Kingsboro Medical Group, is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and a health-related facility within the meaning of Section 2(14) of the Act.
2. Local 153 Office and Professional Employees International Union, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.
3. By announcing the granting of additional paid holidays and improved Keogh Plan benefits, for the purpose of inducing employees to refrain from joining or supporting the Union, the Respondent has violated Section 8(a)(1) of the Act.
4. By threatening the loss of existing benefits such as the annual Christmas party and annual raises and bonuses, in order to induce its employees to refrain from joining or supporting the Union, the Respondent has violated Section 8(a)(1) of the Act.
5. By soliciting employee grievances in order to induce its employees to refrain from joining or supporting the Union, the Respondent has violated Section 8(a)(1) of the Act.
6. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, it shall be recommended that it cease and desist therefrom and that it post the notice attached hereto as affirmative action designed to effectuate the policies of the Act. In this respect I reject the Respondent's contention that the unfair labor practices herein are so isolated or too trivial to warrant relief. *Holladay Park Hospital*, 262 NLRB 278 (1982).

[Recommended Order omitted from publication.]

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[4] See also *NLRB v. Appletree Chevrolet*, 608 F.2d 988, 989–999 (4th Cir. 1979); *NLRB v. WKRG-TV, Inc.*, 470 F.2d 1302, 1308 (5th Cir. 1973).

[5] Given the fact that this letter was issued soon after the Company became aware of the union campaign, it would be naive to assume that this language could refer to anything other than a nonunion relationship.